

STATE OF INDIANA
ORIGINAL
INDIANA UTILITY REGULATORY COMMISSION

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**IN THE MATTER OF THE
INVESTIGATION ON THE COMMISSION'S
OWN MOTION INTO ANY AND ALL
MATTERS RELATING TO LOCAL
TELEPHONE EXCHANGE COMPETITION
WITHIN THE STATE OF INDIANA**

) **CAUSE NO. 39983**
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APPROVED:

DEC 19 2001

BY THE COMMISSION:

**Camie J. Swanson-Hull, Commissioner
Priscilla J. Fossum, Administrative Law Judge**

On August 29, 2001, the Commission issued an Order ("8/29/01-Order") to reopen this investigation into matters relating to local telephone exchange competition within the State of Indiana. In the 8/29/01-Order, the Commission outlined proposed changes in procedures and set an evidentiary hearing for the limited purpose of reopening this record to receive comments of any interested parties. Pursuant to notice, that hearing was convened on Monday, September 24, 2001, at 2:00 p.m. in Room E306, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana. The Daviess-Martin Rural Telephone Companies, the Indiana Exchange Carrier Association, Verizon, and the Office of Utility Consumer Counselor ("OUCC") appeared by counsel, but no members of the general public appeared. As explained in our 8/29/01-Order, the record in this Cause remained open for 30 days after the evidentiary hearing so the Commission could receive and consider comments from any interested parties regarding any and all of the proposed streamlined procedures.

The Commission received written comments from Technologies Management, Inc., Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana, Sprint Communications Company and United Telephone Company of Indiana, Inc. d/b/a Sprint, and the OUCC.¹ Those comments are now incorporated into the record of this Cause, and the Commission thanks those parties for their comments. No party filed a request for an evidentiary hearing or a request to extend the comment period.

1. **Commission Jurisdiction.** Due, legal and timely notice of the hearing in this Cause was given and published by the Commission as required by law. The Commission has previously determined that it has jurisdiction over the providers of telecommunication services within the State of Indiana and the broad subject matter of this proceeding under several statutory sections including Indiana Code §§ 8-1-2-58, 8-1-2-59, 8-1-2-69, and 8-1-2.6-3. Furthermore,

¹ The OUCC and Time Warner Telecom of Indiana L.P., filed comments after the 30 day period expired, which were not incorporated into the record. As noted above, the OUUC timely filed a pleading, also, which the Commission considered.

the jurisdictional prerequisites set forth in previous Orders in this Cause remain applicable. Thus, the Commission has jurisdiction over the subject matter of this proceeding and any affected parties.

2. **Commission Discussion and Findings.** As noted above, the Commission opened the record in this Cause in a properly noticed public hearing to receive written comments from any interested parties. The Commission's goal in doing so was to provide interested parties an opportunity to assist in developing streamlined regulatory and administrative procedures. The Commission received and considered written comments from several parties, and no party filed a request for an evidentiary hearing or a request to extend the comment period. The Commission has reviewed the federal Telecommunications Act of 1996 ("Act"), 47 U.S.C. 252, *et seq.*, Indiana telecommunications statutes, and the Commission's Orders in this and other relevant causes, as well as procedures used to regulate and administer local telephone exchange competition in other jurisdictions. Therefore, the Commission finds that we are appropriately informed to rule on the issues in this Cause.

A. *Streamlined procedures through the use of forms.* The legislature expressly granted the Commission the ability to "adopt rules or by an order in a specific proceeding provide for the development, investigation, testing, and utilization of regulatory procedures or generic standards with respect to telephone companies or services." IC 8-1-2.6-3. Furthermore, the Commission has the discretion to develop rules, procedures or standards "[n]otwithstanding any other statute." *Id.* Indeed, this Order represents the Commission's continuing practice of reviewing and revising the procedures related to local telephone exchange competition within the State of Indiana.

Based on the Commission's experience and the written comments filed in this Cause, the Commission finds that the requirement of an evidentiary hearing in the situations specifically discussed below should be eliminated because such requirement places an unnecessary burden on competitive local exchange carriers ("CLECs"). Such issues are rarely contested and, in fact, are generally completed with the acquiescence of the OUCC. The Commission's experience with the forms authorized in prior Orders in this Cause has shown that streamlined procedures encourage competition in the telecommunications industry. Moreover, no party objected to the proposed elimination of evidentiary hearings, and the written comments were overwhelmingly supportive of the proposed streamlined procedures. The Commission therefore finds that carriers should no longer be required to petition the Commission for "approval" of the transactions, specifically described below, in a docketed cause.

Rather, the Commission finds that the attached forms should be utilized in lieu of a petition that requires an evidentiary hearing. These forms serve the purpose of adequately informing the Commission and other interested parties about changes a carrier is considering. Within a week of receiving the form, the Commission will publish notice of the proposed change on the Commission's website and review the form to determine whether the proposed change raises any issue of public interest that would require an evidentiary hearing. These forms will not trigger a docketed proceeding resulting in a Commission Order approving the changes reflected in the forms. After 30 days, unless the Commission determines that the need for an evidentiary

hearing exists – based on its own review or in response to another party's comments – the Commission will modify its records to reflect the requested change.

The Commission retains its jurisdiction under Indiana Code § 8-1-2-58, including but not limited to the ability to suspend and/or investigate a proposed service or change in a service offering that could be affected by a change proposed through the forms. Also, the Commission specifically retains jurisdiction over any complaints regarding any proposed changes that may be filed under Indiana Code §§ 8-1-2-5, 8-1-2-54, 8-1-2-107, 8-1-2-109, 8-1-2-112, and 8-1-2-115 and related statutes.

In the 8/29/01-Order, the Commission proposed a 20-day notice period. The OUCC, however, recommended a 30-day waiting period, which the Commission hereby adopts. The OUCC also suggested that additional questions be added to the forms, and the Commission did, in fact, add some questions. For example, under the relinquishment section, the attached forms request that the Applicant inform the Commission about any other CTA granted by this Commission to the Applicant. The Commission did not add all the questions suggested by the OUCC but expressly finds that nothing in the new procedures, i.e., using the form rather than requiring an evidentiary hearing, should inhibit the OUCC from seeking additional information from an Applicant to assist in the OUCC's determination of whether an evidentiary hearing is appropriate. As noted above, any interested party may request an evidentiary hearing based on the Application filed with the Commission and published on the Commission website.

The RS form applies to CLECs that hold a certificate of territorial authority ("CTA") to resell bundled local exchange services. This form will allow CLEC resellers to inform the Commission of: 1) Mergers, acquisitions, transfers of assets, and the issuance of stock, the issuance of debt, entering into a credit facility and/or other evidence of indebtedness; 2) Name change, adoption of an assumed business name, etc.; and/or 3) Change in status of an existing CTA. As noted above, the Commission will publish notice of the proposed change on the Commission's website within a week of receiving the form, and the Commission will review the form to determine whether the proposed change raises any issue of public interest that would require an evidentiary hearing. After 30 days, unless the Commission determines that the need for an evidentiary hearing exists, the Commission will modify its records to reflect the proposed change.

The FB form will allow LECs that hold a CTA to provide facilities-based local exchange or interexchange services to inform the Commission of: 1) Mergers, acquisitions, transfers, and the issuance of stock, the issuance of debt, entering into a credit facility and/or other evidence of indebtedness; 2) A change of name or adoption of an assumed name for the above certified company; and/or 3) Relinquishment of existing CTA. The most significant difference between the two forms is that the only change that facilities-based LECs may make to their CTA through the form is relinquishment, while reseller CLECs may change the status of the CTA, i.e., sell or transfer the CTA, through the form. In other words, facilities-based LECs must still petition the Commission for approval before the sale or transfer of their CTAs. The OUCC requested that incumbent local exchange carriers ("ILECs") and their affiliates and LECs related to other utilities be excluded from the streamlined procedures. Although the Commission agrees with the

OUCG that an ILEC may not relinquish its CTA without an evidentiary hearing, as noted on the form, the Commission finds it appropriate to allow ILECs and LECs related to other utilities to inform the Commission of name changes, ownership changes, or financing transactions through the streamlined procedures.

All Applicants should file four paper copies of each Application with supporting documentation and one unofficial electronic copy in PDF format on disk. The Commission will provide the OUCG with one copy of each form as the OUCG requested. The Commission reminds all interested parties that the Application will be reviewed by the Commission, notice of the proposed changes will be published, and any interested party has 30 days from the date of publication to request an evidentiary hearing. The Commission finds that this process sufficiently balances the Commission's regulatory and administrative interests and the public's interest against the need to reduce unnecessary barriers to competition. Thus, the Commission finds that the attached forms should be utilized by carriers beginning February 1, 2002.

B. Voluntarily Negotiated Interconnection Agreements, Adoption of Previously Approved Interconnection Agreements,² and Amendments to Voluntarily Negotiated Interconnection Agreements. The Commission also proposed changing the procedure regarding voluntarily negotiated interconnection agreements. In prior Orders, the Commission established procedures to be followed by any entity seeking to file under Section 252(e) of the federal Telecommunications Act of 1996 ("Act") for approval of agreements, and the Commission adopted General Administrative Order 2000-1, setting forth the policy governing the submission of interconnection agreements and amendments on February 2, 2000. Although the Act authorizes the Commission to review voluntarily negotiated interconnection agreements – and the Commission exercised such jurisdiction – the Act does not require individual review of each voluntarily negotiated interconnection agreement, adoption or amendment. Thus, based on the Commission's experience with this process, research into procedures used in other states, and the written comments filed in this Cause, the Commission finds it appropriate to dispense with its individual review and approval of voluntarily negotiated interconnection agreements within docketed causes.

The Commission finds that competition would be better served by the following process:

1. The parties to the voluntarily negotiated interconnection agreement, adoption or amendment file such agreement, adoption or amendment with the Commission. In the case of adoptions, the CLEC must also serve the ILEC with notice of the CLEC's intent to adopt an interconnection on the same day that it files its proposed adoption with the Commission. The parties should file four paper copies and one unofficial electronic copy with the Commission. The Commission will in turn provide one copy to the OUCG.

²The Commission will continue to treat attempts to adopt interconnection agreements that have been approved or accepted in another state as a voluntarily negotiated interconnection agreement. In other words, the entity wishing to adopt such interconnection agreement must submit the agreement to the Commission.

2. Within a week of the filing, the Commission will post notice of the proposed agreement, adoption or amendment on its website, and the voluntarily negotiated interconnection agreement, adoption or amendment itself would be available for public review at the Commission's office.
3. Absent any objection within 30 days from the day notice is posted, the Commission would accept the voluntarily negotiated interconnection, adoption or amendment agreement.
4. The Commission, however, will no longer routinely issue an order that approves or rejects the voluntarily negotiated interconnection agreement, adoption or amendment.

The Commission finds that such procedure has no effect on our jurisdiction to reject any agreement or amendment that fails to satisfy the standard set out in the Act. Furthermore, the Commission specifically retains its jurisdiction under Indiana Code § 8-1-2-58, including but not limited to the ability to suspend and/or investigate a proposed service or change in a service offering. Also, the Commission retains jurisdiction over any complaints regarding interconnection agreements, adoptions or amendments that may be filed under Indiana Code §§ 8-1-2-5, 8-1-2-54, 8-1-2-107, 8-1-2-109, 8-1-2-112, 8-1-2-115, 170 IAC 7-7 and any such authority provided to the Commission under the Act.

Ameritech Indiana expressly requested that the Commission change its rules and procedures regarding the adoption of interconnection agreements. The Commission declines to do so because the new procedures neither expand nor contract any party's rights or obligations under the Act. The new procedures affect only the Commission's internal procedures. Thus, an ILEC is still obligated to "make available any interconnection service or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the arrangement," 47 U.S.C. § 252(i), regardless whether the Commission's review of a proposed adoption takes place within a docketed proceeding or in an informal process. The Commission finds that requiring the CLEC to seek the ILEC's agreement to the adoption would violate the spirit – if not the letter – of the Act.

Nevertheless, the Commission agrees with Ameritech Indiana that a CLEC seeking adoption of an existing interconnection agreement must serve the ILEC with notice of the CLEC's intent to adopt the interconnection agreement on the same day the CLEC files its request for adoption with the Commission. An ILEC still has the right to object to the adoption of a specific term and is not obligated to provide the interconnection service or network element arrangement if the ILEC can satisfy the standard within 47 C.F.R. § 51.809(b). And the Commission finds that the amount of time that an ILEC has to object to such adoption should be expanded to 30 days. Finally, the Commission declines to amend our G.A.O. 2000-1, which addresses the filing of interconnection agreements, adoptions and amendments. Rather, because this Order provides the specific procedures to be utilized, the Commission will repeal G.A.O. 2000-1 in a separate resolution.

3. **Conclusion.** The Commission finds that administering our regulatory obligation through the procedures discussed above in docketed causes, some of which currently require evidentiary hearings, may negatively impact local telephone exchange competition within the State of Indiana. The Commission also finds that the streamlined procedures discussed above do not affect the rights or obligations of any interested parties under the Act or Indiana's telecommunications statutes. Furthermore, the Commission finds that the streamlined procedures discussed above sufficiently balance the Commission's regulatory and administrative interests and the public interest against the need to reduce unnecessary barriers to competition. Because the Commission wishes to reduce as many impediments to competition as possible, the Commission will implement the procedures outlined above effective February 1, 2002.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The attached forms, which will be used to implement the proposed streamlined regulatory and administrative procedures outlined above, shall be available for use to effectuate the proposed streamlined regulatory and administrative procedures as of February 1, 2002.

2. The procedures outlined above for voluntarily negotiated interconnection agreements, adoption of previously approved interconnection agreements, and amendments to voluntarily negotiated interconnection agreements shall become effective as of February 1, 2002.

3. This Order shall be effective on and after the date of its approval.

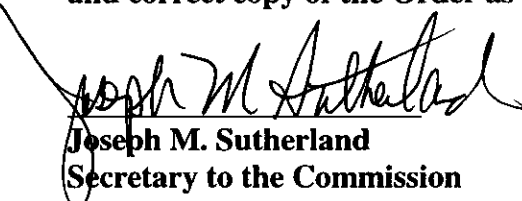
McCARTY, HADLEY, RIPLEY AND ZIEGNER CONCUR;

SWANSON-HULL ABSENT:

APPROVED:

DEC 19 2001

**I hereby certify that the above is a true
and correct copy of the Order as approved.**


Joseph M. Sutherland
Secretary to the Commission

**Applicants should file four paper copies of each form
with supporting documentation and one unofficial electronic
copy (Word Document, PDF File or Text Document) on disk.**

**VERIFIED NOTICE OF CHANGE IN A CERTIFICATE OF TERRITORIAL
AUTHORITY TO RESELL BUNDLED LOCAL EXCHANGE SERVICES WITHIN THE
STATE OF INDIANA**

(As addressed in Cause No. 39983 issued December 19, 2001)

Tracking No. _____
(Internal use only)

Relevant statutes and rules: Indiana Code § 8-1-2-88; 8-1-2.6, *et seq.*; 170 IAC 7-1, *et seq.*

To the Telecommunications Division of the Indiana Utility Regulatory Commission (IURC):

_____ hereby
(Company Name)
*notifies the IURC of a change in the Certificate of Territorial Authority (CTA) to resell
bundled local exchange telecommunications services in the State of Indiana issued to*
_____ in Cause No. _____
(Company Name)
dated _____.

The change being noticed herein by Applicant relates to:
(Please check all boxes and complete all blanks that apply, and attach any supporting documents.)

- ☐ *Mergers, acquisitions, transfers of assets, and the issuance of stock, the issuance of debt,
entering into a credit facility and/or other evidence of indebtedness.*

*Describe the transaction and, where applicable, identify the anticipated principal amount and
whether the transaction is a refinancing:* _____

Effective Date: _____

- ☐ *Name change, adoption of an assumed business name, etc.*

a) *Existing name:* _____

**Applicants should file four paper copies of each form
with supporting documentation and one unofficial electronic
copy (Word Document, PDF File or Text Document) on disk.**

**VERIFIED NOTICE OF CHANGE IN A CERTIFICATE OF TERRITORIAL
AUTHORITY TO RESELL BUNDLED LOCAL EXCHANGE SERVICES WITHIN THE
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To the Telecommunications Division of the Indiana Utility Regulatory Commission (IURC):

_____ hereby
(Company Name)
notifies the IURC of a change in the Certificate of Territorial Authority (CTA) to resell
bundled local exchange telecommunications services in the State of Indiana issued to

_____ in Cause No. _____
(Company Name)
dated _____.

The change being noticed herein by Applicant relates to:
(Please check all boxes and complete all blanks that apply, and attach any supporting documents.)

- ☐ *Mergers, acquisitions, transfers of assets, and the issuance of stock, the issuance of debt,
entering into a credit facility and/or other evidence of indebtedness.*

*Describe the transaction and, where applicable, identify the anticipated principal amount and
whether the transaction is a refinancing:* _____

Effective Date: _____

- ☐ *Name change, adoption of an assumed business name, etc.*

a) *Existing name:* _____

b) New name: _____

c) d/b/a: _____

For name change, please provide the following:

1. *The reason for the name change or d/b/a and the effect on the operations and/or the utility's customers.*
2. *A certified copy of the amended certificate of authority or certificate of assumed business name issued by the Secretary of State of the State of Indiana.*
3. *If applicable, submit two copies of new tariffs with each page changed to reflect the new name. (not necessary for a d/b/a)*
4. *Method by which the company's customers were or will be notified of the proposed name change or assumed name to alleviate customer confusion and prevent baseless slamming complaints (attach copy of bill insert, notice, etc.)*

☐ *Change in status existing CTA for:* _____
(Name of Company)

Granted in Cause No: _____ *Date:* _____

Mark one:

☐ *Sale, Lease or Transfer to* _____
(Name and address of Company)

☐ *Relinquish.*

Reason for change in CTA status: _____

For CTA relinquishment:

1. *Please identify any other CTA currently held by Applicant -- by Cause No., type and date issued — that will be retained.*

2. Please provide the number of customers that Applicant currently serves in Indiana.
3. Please provide the method by which Applicant's customers were notified that Applicant is relinquishing its CTA.
4. How much time will Indiana customers have to find a new service after receipt of notice before Applicant's operations cease?

Designated Regulatory Contact Information

Include company name, contact person, phone & fax numbers, and e-mail address for each Applicant:

Verification

I affirm under penalties of perjury that the foregoing representations are true.

Officer's Name & Title _____
(Printed)

Signature _____ Date _____

Phone Number _____

Acknowledged by the IURC: CTA No.: _____ Date: _____

Applicants should file four paper copies of each form with supporting documentation and one unofficial electronic copy (Word Document, PDF File or Text Document) on disk.

Applicants should file four paper copies of each form with supporting documentation and one unofficial electronic copy (Word Document, PDF File or Text Document) on disk.

VERIFIED NOTICE OF A CHANGE IN A CERTIFICATE OF TERRITORIAL AUTHORITY FOR A FACILITIES-BASED PROVIDER OF LOCAL EXCHANGE SERVICE OR INTEREXCHANGE SERVICE

(As addressed in Cause No. 39983 issued December 19, 2001)

Tracking No. _____
(Internal Use Only)

Relevant statutes and rules: Indiana Code § 8-1-2-88; 8-1-2.6, *et seq*; 170 IAC 7-1, *et seq*.

To the Telecommunications Division of the Indiana Utility Regulatory Commission (IURC):

_____ hereby notifies the
(Company Name)
IURC of a change in the Certificate of Territorial Authority (CTA) to provide
facilities-based _____ service in the State of Indiana issued to
(Type of service)
_____ in Cause No. _____
(Company Name)

dated _____.

The change being noticed herein by Applicant relates to:

(Please check all boxes and complete all blanks that apply, and attach any supporting documents.)

- ☐ Mergers, acquisitions, transfers, and the issuance of stock, the issuance of debt, entering into a credit facility and/or other evidence of indebtedness.

***** PLEASE NOTE: any change in the status of a CTA, i.e., sale or transfer, requires the filing of a petition with the Commission in a docketed cause.*****

Describe the transaction and, where applicable, identify the anticipated principal amount and whether the transaction is a refinancing: _____

Effective Date: _____

☐ *A change of name or adoption of an assumed name for the above certified company.*

Existing Name: _____

New Name: _____

New d/b/a: _____

For name change, please provide the following:

- 1. The reason for the name change or d/b/a and the effect on the operations and/or the Applicant's customers.*
- 2. A certified copy of the amended certificate of authority or certificate of assumed business name issued by the Secretary of State of the State of Indiana.*
- 3. If applicable, submit two copies of new tariffs with each page changed to reflect the new name (not necessary for d/b/a).*
- 4. Method by which Applicant's customers were or will be notified of the proposed name change or assumed name to alleviate customer confusion and prevent baseless slamming complaints (attach copy of bill insert, notice, etc.).*

The following option is not available to Incumbent Local Exchange Carriers.

☐ *Relinquishment of existing CTA for:* _____
(Name of Company)

Granted in Cause No.: _____ *Date:* _____

Reason for relinquishment: _____

For CTA relinquishment:

- 1. Please identify any other CTA currently held by Applicant -- by Cause No., type and date issued — that will be retained.*
- 2. Please provide the number of customers that Applicant currently serves in Indiana.*
- 3. Please provide the method by which Applicant's customers were notified that Applicant is relinquishing its CTA.*
- 4. How much time will Indiana customers have to find a new service after receipt of notice before Applicant's operations cease?*

Designated Regulatory Contact Information

Include company name, contact person, phone & fax numbers, and e-mail address for each Applicant:

Verification

I affirm under penalties of perjury that the foregoing representations are true.

Officer's Name & Title: _____
(Printed)

Signature _____ *Date* _____

Phone Number _____

Acknowledged by the IURC: CTA No.: _____ *Date:* _____

Applicants should file four paper copies of each form with supporting documentation and one unofficial electronic copy (Word Document, PDF File or Text Document) on disk.